

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO.: 3:14-cv-632**

STEVEN C. POIRIER,)	
)	
Plaintiff,)	
)	
v.)	ORDER
)	
NANCY A. BERRYHILL,)	
Acting Commissioner of Social Security,)	
)	
Defendant.)	

THIS MATTER is before the Court on the Motion for Attorney Fees (Doc. No. 22) filed by Plaintiff's counsel, George C. Piemonte, on March 6, 2018. Defendant filed a response neither supporting nor opposing the Motion, but instead stating that under *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002), it is the duty of the Court to determine a reasonable fee.

Pursuant to 42 U.S.C. §406(b), whenever the court renders a judgment favorable to a claimant, it may award attorney fees not to exceed 25% of past-due benefits. When there is a contingency fee agreement, the reviewing court does not calculate a lodestar amount; it simply reviews the fee claimed for reasonableness. *See Mudd v. Barnhardt*, 418 F.3d 424, 427-28 (4th Cir. 2005) (citing *Gisbrecht*, 535 U.S. at 801, 808). The relevant factors of reasonableness are: the overall complexity of the case, the lawyering skills necessary to handle it effectively, the risks involved, and the significance of the result achieved in district court.

Here, the fee agreement between Plaintiff and counsel provides for a contingency fee of 25% of past-due benefits. Plaintiff was awarded \$13,118.48 under Title XVI and \$71,338.00 under Title II of the Act in past-due benefits at the administrative level after this Court entered judgment. Pursuant to the agreement, counsel requests a fee of \$17,834.50. The Court has reviewed the amount requested by counsel and finds it to be reasonable in light of the fee

agreement, hours expended, complexity of the matter and skill required, risk of taking a case on a contingency basis, and result achieved. Accordingly, counsel's Motion shall be granted.

THEREFORE, it is hereby **ORDERED**:

- (1) The Motion (Doc. No. 22) shall be **GRANTED**.
- (2) The Social Security Administration shall release the sum of \$17,834.50 to Plaintiff's counsel as attorney fees for services rendered before this Court;
- (3) Plaintiff's counsel shall refund to the Plaintiff the amount of \$5,000.00 previously awarded and paid to Plaintiff's counsel pursuant to the Equal Access to Justice Act;
and
- (4) Plaintiff's counsel shall withdraw the fee petition pending before the Administrative Law Judge since 1/17/2017.

SO ORDERED.

Signed: March 20, 2018



Graham C. Mullen
United States District Judge
